

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

MATTHEW JACOB CARTWRIGHT
Plaintiff

V.

CHIPOTLE MEXICAN GRILL, INC. D/B/A
CHIPOTLE MEXICAN GRILL #112, AND
CHIPOTLE MEXICAN GRILL OF
COLORADO, LLC,
Defendants.

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C.A. No. 3:21-cv-00051

DEFENDANTS' ANSWER TO PLAINTIFF'S ORIGINAL PETITION

Defendants Chipotle Mexican Grill, Inc. and Chipotle Mexican Grill of Colorado, LLC
("Defendants") file their Answer to Plaintiff's Original Petition, and respectfully show:

I.
ANSWER

Defendants respectfully plead pursuant to FED. R. CIV. P. 12(b)(6) that Plaintiff's
Original Petition fails to state a claim upon which relief may be granted.

In further answer, Defendants aver as follows:

1. The allegations in Paragraph 1 of Plaintiff's Original Petition do not require an answer.
2. Defendants are without sufficient information or belief as to the allegations in Paragraph 2 of Plaintiff's Original Petition.
3. Defendants admit the allegations of Paragraph 3 of Plaintiff's Original Petition.
4. Defendants admit the allegations of Paragraph 4 of Plaintiff's Original Petition.
5. The allegations in Paragraph 5 of Plaintiff's Original Petition do not require an answer.

6. Defendants admit the allegations of Paragraph 6 of Plaintiff's Original Petition.
7. Defendants admit the allegations of Paragraph 7 of Plaintiff's Original Petition.
8. The allegations in Paragraph 8 of Plaintiff's Original Petition do not require an answer.
9. Defendants admit the allegations of Paragraph 9 of Plaintiff's Original Petition.
10. With respect to Paragraph 10 of Plaintiff's Original Petition, Defendants admit that Plaintiff was a customer at the Chipotle store #112 located at 118 East John Carpenter Freeway, Suite 160, Irving, Dallas County, Texas 75062, on November 23, 2018. Defendants deny the remaining allegations in Paragraph 10 of Plaintiff's Original Petition.
11. Defendants admit they owe their customers a duty of care; however, Defendants deny the remaining allegations in Paragraph 11 of Plaintiff's Original Petition.
12. Defendants deny the allegations in Paragraph 12 of Plaintiff's Original Petition.
13. With respect to Paragraph 13 of Plaintiff's Original Petition, Defendants admit that at the time of the incident which makes the basis of this lawsuit, Defendant Chipotle Mexican Grill, Inc. was the owner, operator, and/or the manager of the premises located at 118 East John Carpenter Freeway, Suite 160, Irving, Dallas County, Texas 75062.
14. Defendants admit the allegations of Paragraph 14 of Plaintiff's Original Petition.
15. Defendants deny the allegations in Paragraph 15 of Plaintiff's Original Petition.
16. Defendants deny the allegations in Paragraph 16 of Plaintiff's Original Petition.
17. Defendants admit they owe their customers a duty of care; however, Defendants deny the remaining allegations in Paragraph 17 of Plaintiff's Original Petition.

18. Defendants deny the allegations in Paragraph 18 of Plaintiff's Original Petition.
19. Defendants deny the allegations in Paragraph 19 of Plaintiff's Original Petition.
20. Defendants deny the allegations in Paragraph 20 of Plaintiff's Original Petition.
21. Defendants deny the allegations in Paragraph 21 of Plaintiff's Original Petition.
22. The statements in Paragraph 22 of Plaintiff's Original Petition are not allegations but are discovery requests, and therefore do not require an answer.
23. The statements in Paragraph 23 of Plaintiff's Original Petition are not allegations but are discovery requests, and therefore do not require an answer.
24. The statements in Paragraph 24 of Plaintiff's Original Petition do not require an answer.
25. The statements in Paragraph 25 of Plaintiff's Original Petition do not require an answer.
26. Defendants are without sufficient information or belief as to the allegations in Paragraph 26 of Plaintiff's Original Petition.
27. The statements in Paragraph 27 of Plaintiff's Original Petition do not require an answer.
28. The statements in Paragraph 28 of Plaintiff's Original Petition do not require an answer.

II.

AFFIRMATIVE DEFENSES

Having answered the allegations of Plaintiff's Original Petition and having denied any liability whatsoever, Defendants further deny any allegations that have not been expressly admitted and, without assuming the burden of proof where it otherwise rests with Plaintiff,

Defendants further plead the following defenses to all claims alleged in Plaintiff's Original Petition:

1. Defendants affirmatively allege that if Plaintiff was injured as alleged, such injuries were solely the result of Plaintiff's negligence, which was a proximate cause, in whole or in part, of Plaintiff's injuries, if any.

2. Defendants affirmatively allege that if Plaintiff was injured as alleged, Plaintiff's injuries were caused, in whole or in part, by a third-party for whom Defendants have no responsibility.

3. Defendants affirmatively allege that Plaintiff's injuries, if any, are the result of a pre-existing condition.

4. Defendants affirmatively allege that Plaintiff failed to mitigate his damages.

5. Defendants affirmatively allege that Plaintiff's alleged injuries are attributable to a new, independent, and/or superseding cause, and were therefore not proximately caused by any act or omission by Defendants.

6. Defendants seeks apportionment of fault among all parties, including responsible third parties, pursuant to Chapter 33 of the Texas Civil Practice and Remedies Code.

7. Defendants assert that Plaintiff's claimed medical expenses should be reduced to the amount actually paid by or incurred on behalf of Plaintiff pursuant to Texas Civil Practice and Remedies Code Section 41.0105.

8. Defendants assert that Plaintiff's alleged medical expenses and damages are not reasonable and necessary and were not proximately caused by any act or omission by Defendants.

9. To the extent plead or sought by Plaintiff, if at all, Defendants affirmatively plead the defense set forth in Texas Civil Practice and Remedies Code Section 18.091, requiring Plaintiff to prove Plaintiff's loss of earnings and/or loss of earning capacity in the form which represents Plaintiff's net loss after reduction for income tax payments or unpaid tax liability on said loss of earnings claim pursuant to any federal income tax law. Texas Civil Practice and Remedies Code, Section 18.091. Additionally, Defendants request the Court to instruct the jury as to whether any recovery for compensatory damages sought by the Plaintiff, if any, is subject to federal or state income taxes.

10. Defendants affirmatively allege that Plaintiff's alleged injuries were a result of a pre-existing medical condition or were the result of the natural and ordinary diseases and illnesses of life, which bear no connection to Defendant Chipotle and/or its products.

11. Upon information and belief, some or all of Plaintiff's injuries and damages, if any, are the result of Plaintiff's failure to follow reasonable medical advice and instructions of attending doctors and other health care providers.

12. During all relevant times, Defendant had in place effective policies and procedures to prevent foodborne illness in its restaurants. Any actions contrary to these policies or contrary to Defendant's good faith efforts to comply with applicable laws were done without Defendant's consent or authorization.

III. **JURY DEMAND**

Defendant demands a trial by jury in this action.

WHEREFORE, Defendants Chipotle Mexican Grill, Inc. and Chipotle Mexican Grill of Colorado, LLC, respectfully pray that this Court determine and adjudge that:

1. Plaintiff take nothing by way of damages;
2. Defendants be awarded costs; and

3. Defendants be awarded such other and further relief as this Court deems just and proper.

Respectfully submitted,

THOMPSON & REILLEY, P.C.

By: /s/ Steven S. Reilley
Steven S. Reilley
State Bar No. 00791502
sreilley@thompsonreilley.com
Peter Thompson
State Bar No. 19898300
pthompson@thompsonreilley.com
1021 Main Street, Suite 1950
Houston, Texas 77002
Telephone: (713) 658-0880
Facsimile: (713) 658-0330

ATTORNEYS FOR DEFENDANTS CHIPOTLE MEXICAN GRILL,
INC. AND CHIPOTLE MEXICAN GRILL OF COLORADO, LLC

CERTIFICATE OF SERVICE

I certify that on January 28, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which sends notification of such filing to anyone able to accept electronic filing.

/s/ Peter Thompson

Peter Thompson